

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
NOV 14 2003
CLERK, U.S. DISTRICT COURT
By: _____ Deputy

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CIVIL ACTION NO.
3:03-CV-761-P

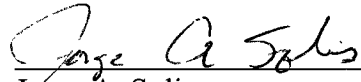
Defendants.

ORDER — Page 1
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considering this court's analysis of the merits of plaintiffs' claims, "continuing prosecution of this lawsuit is futile unless plaintiffs prevail on appeal." (Plfs.' Mot. at p. 1). Plaintiffs further state that they will move for voluntary dismissal of their claims if they do not prevail on appeal. In the event they prevail on appeal, plaintiffs maintain that staying proceedings in this court is still appropriate because the likelihood of settlement will be enhanced and the case does not present complex discovery issues. Defendant opposes staying the proceedings because of the uncertainty of the grounds on which the court of appeals will decide the case on appeal and maintain that judicial economy will best be attained if the parties proceed with the limited discovery they have agreed upon and resolve the case by summary judgment.

The court agrees with plaintiffs that the best course is to stay the proceedings in this court until the appeal is decided by the Fifth Circuit. As plaintiffs note, if this court's order is upheld on appeal, the case may never go any further, and the time and money spent on discovery and filing motions for summary judgment will have been unnecessary. If this court's order is reversed, the case can be prepared for resolution quickly, and perhaps the issues remaining for resolution will have been narrowed. The parties have agreed in their Joint Proposal that only four months of discovery is necessary, and motions for summary judgment could be filed within thirty days after the close of discovery. Thus, granting the motion for stay will not result in a significant delay of this case. Accordingly, plaintiffs' motion for stay filed on September 30, 2003 is granted. The court will withhold issuing a Scheduling Order until after the Fifth Circuit Court of Appeals has decided the appeal.

Signed this 14th day of November 2003.

A handwritten signature in cursive script, appearing to read "Jorge A. Solis", is written over a horizontal line.

Jorge A. Solis
United States District Judge